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REMARKS/ARGUMENTS

Claims 1 and 2 are pending and rejected. By this Amendment and Response, claims 1 and 2 are amended.

35 U.S.C. §101

Claims 1 and 2 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 1 and 2 have been amended to positively recite steps in a process. Claims 1 and 2 have been drafted towards subject matter that has previously been deemed to be statutory. See, for example, U.S. Patent No. 6,887,152, in which claim 1 is directed to a method of paying prizes in a lottery game. Reconsideration and withdrawal of the rejection is respectfully requested.

35 U.S.C. §102

Claims 1 and 2 were rejected under 35 U.S.C. §102(b) as being anticipated by Markowicz (U.S. Pat. 4,842,278).

Claim 1, as amended, is directed to a method for operating a lotto game played among a plurality of member lotteries. The method includes the steps of "providing a system of prize levels" including a jackpot prize level and a subordinate prize level, "wherein all member lotteries are eligible for the jackpot prize." Subordinate prizes having a pre-determined fixed monetary value are awarded from a first member lottery. Subordinate prizes are awarded from a second member lottery that is diverse from the first member lottery on a pari-mutuel basis.

Markowicz is directed to a network of individual lottery systems having independent structure for selecting individual winners. The individual lotteries also feed through to a network-level lottery having differentiated win pools at the network level, each one being separately accumulated and separately awarded.

Markowicz describes prizes awarded on a pari-mutuel basis but does *not* describe awarding subordinate prizes having a pre-determined fixed monetary value. Thus, Markowicz neither teaches nor suggests a first member lottery awarding prizes having a pre-

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determined fixed monetary value *in combination with* a second member lottery awarding subordinate prizes on a pari-mutuel basis. Because Markowicz fails to teach or suggest each and every element of claim 1, reconsideration and withdrawal of the rejection of claim 1 is respectfully requested.

Claim 2 depends from claim 1 and is allowable for at least that reason.

Reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

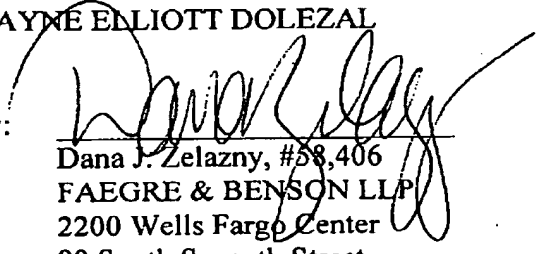
All of the claims remaining in this application should now be seen to be in condition for allowance. The prompt issuance of a notice to that effect is respectfully solicited. If there are any remaining questions, the Examiner is requested to contact the undersigned at the number listed below.

No fee is believed to be necessary for the entry of this paper. Should any fee be required for entry of this paper, the Commissioner is authorized to charge the Faegre & Benson Deposit Account No. 06-0029 and in such event, is requested to notify us of the same.

Respectfully Submitted,

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